

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Max Gross	Team: Team # 3	CCRB Case #: 201016728	<input type="checkbox"/> Force	<input type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Saturday, 10/09/2010 2:20 PM	Location of Incident: East 174th Street and Metcalf Avenue	Precinct: 43	18 Mo. SOL 4/9/2012	EO SOL 4/9/2012	
Date/Time CV Reported Tue, 12/07/2010 3:51 PM	CV Reported At: CCRB	How CV Reported: In-person	Date/Time Received at CCRB Tue, 12/07/2010 3:51 PM		

Complainant/Victim	Type	Home Address

Subject Officer(s)	Shield	TaxID	Command
1. POM Anthony Leitao	03718	944132	043 PCT
2. POM Miguel Iglesias	15012	941926	043 PCT

Officer(s)	Allegation	Investigator Recommendation
A.POM Anthony Leitao	Abuse: Officer Anthony Leitao stopped § 87(2)(b) and § 87(2)(b)	
B.POM Miguel Iglesias	Abuse: Officer Miguel Iglesias stopped § 87(2)(b) and § 87(2)(b)	
C.POM Miguel Iglesias	Abuse: Officer Miguel Iglesias frisked § 87(2)(b)	
D.POM Miguel Iglesias	Abuse: Officer Miguel Iglesias searched § 87(2)(b)	
E.POM Anthony Leitao	Abuse: Officer Anthony Leitao searched § 87(2)(b) s bag.	
F.POM Miguel Iglesias	Abuse: Officer Miguel Iglesias threatened to arrest § 87(2)(b)	

Case Summary

On December 7, 2010, § 87(2)(b) and her boyfriend § 87(2)(b) were present at the CCRB to file this complaint as walk-in complainants [Enc. 9A-B]. On October 9, 2010, § 87(2)(b) and § 87(2)(b) had recently exited § 87(2)(b)'s residence and were walking near the intersection of East 174th Street and Metcalf Avenue in the Bronx when they were approached by Officer § 87(2)(b) [sic] Iglesias and Officer Anthony Leitao of the 43rd Precinct SNEU team. The following allegations resulted:

- **Allegation A) Officer Anthony Leitao stopped** § 87(2)(b) **and** § 87(2)(b)
- **Allegation B) Officer Miguel Iglesias stopped** § 87(2)(b) **and** § 87(2)(b)
§ 87(2)(g)
- **Allegation C) Officer Miguel Iglesias frisked** § 87(2)(b) § 87(2)(g)
- **Allegation D) Officer Miguel Iglesias searched** § 87(2)(b) § 87(2)(g)
- **Allegation E) Officer Anthony Leitao searched** § 87(2)(b) **s bag:** § 87(2)(g)
- **Allegation F) Officer Miguel Iglesias threatened to arrest** § 87(2)(b) § 87(2)(g)

Both § 87(2)(b) and § 87(2)(b) declined to participate in the agency's mediation program.
§ 87(2)(b)

Results of Investigation

Civilian Statements

Complainant: § 87(2)(b)

- § 87(2)(b) is a § 87(2)(b)-old black female who stands 5'9" and weighs 200 pounds. She has black hair and brown eyes.

On December 7, 2010, § 87(2)(b) was interviewed at the CCRB as a walk-in complainant [Enc. 10A-F]. On October 9, 2010, at 2:20pm, § 87(2)(b) and her boyfriend § 87(2)(b) had exited § 87(2)(b)'s residence located inside of § 87(2)(b)'s residence in the Bronx headed for the Elder Avenue 6 train station. § 87(2)(b) was going to work in Manhattan and § 87(2)(b) was going to Manhattan to attend to some personal matters.

According to § 87(2)(b) § 87(2)(b) § 87(2)(b) is privately-owned building. The building has two exterior doors that are always locked, and she is not aware of any signs indicating the buildings participation in the Clean Halls or Trespass Affidavit program. § 87(2)(b) and § 87(2)(b) § 87(2)(b) walked straight out of the building and did not stop or congregate with anyone inside of the building's lobby. § 87(2)(b) was wearing a blue, red and white jacket; blue jeans, and sneakers.

They walked approximately one block westbound on East 174th Street (crossing Fteley Avenue). As they approached the corner of East 174th Street and Metcalf Avenue they noticed an unmarked black car driving slowly towards them down East 174th Street. § 87(2)(b) and § 87(2)(b) initially did not pay attention until the unmarked vehicle did a U-turn and pulled up besides them. Inside the unmarked vehicle were two uniformed officers, identified by the CCRB as Officer Anthony Leitao and Officer Miguel Iglesias of the 43rd Precinct. From inside of the car, Officer Iglesias, who was described as a Hispanic male, approximately 6'1" and 170 pounds, asked § 87(2)(b) and § 87(2)(b) if they lived inside of the building. § 87(2)(b) replied that § 87(2)(b) lived inside of the building and he was headed to work. Officer Iglesias stepped out of the car and approached § 87(2)(b) saying, "We saw you come out of § 87(2)(b) § 87(2)(b). That building is under police surveillance. You got any ID or anything to prove that you live there?" § 87(2)(b) provided his EBT benefits card as well as a piece of mail he carries which has his address on it. Officer Iglesias asked § 87(2)(b) "You got any warrants?" § 87(2)(b) replied, "What do you mean do I have any warrants? I thought you were asking me to prove that I live there?" Officer Iglesias replied, "Oh you getting smart?" and physically guided § 87(2)(b) towards the front hood of the vehicle and frisked him over his jacket and pants before reaching into his pants pockets.

§ 87(2)(b) stated, "Why are you searching him? You have no probable cause to search him?" § 87(2)(b) replied, "§ 87(2)(b) calm down." Meanwhile, Officer Leitao, who was described as Hispanic male approximately 5'7", with a muscular build and short hair, approached § 87(2)(b) and asked her if she had any warrants. She replied that she did not and she recently had a case dismissed on § 87(2)(b). Officer Leitao requested § 87(2)(b)'s identification, which she provided. The officers then conferred with each other with a low voice on the other side of the vehicle. § 87(2)(b) continued to verbally protest their stop. Officer Iglesias replied, "Shut up you smart ass. You think you know every fucking thing? I'll run your ass in."

Officer Leitao walked over and returned § 87(2)(b)'s identification, but then grabbed § 87(2)(b)'s bag and said, "You on drugs?" § 87(2)(b) replied, "No I ain't on no drugs." Officer Leitao did not ask § 87(2)(b) if he could search her bag before removing it from her shoulder. § 87(2)(b)'s bag was a standard sized black leather pocket book with a thin shoulder strap and three zipper compartments (all of the zippers were closed at the time of the stop). Officer Leitao opened and looked through all three zippered compartments, reaching inside and moving the contents around inside, at one point removing her wallet and holding it in his hand. Officer Leitao did not frisk or feel over the bag or ask about the contents of her pocket book before searching it.

After her bag was searched, Officer Leitao returned her pocket book. § 87(2)(b) noticed Officer Iglesias bending down to the side of § 87(2)(b) and picking up what appeared to be a clear empty glassine envelope from the ground and displaying it to § 87(2)(b) § 87(2)(b) began denying possession of the narcotics, stating "Man I didn't have that!" § 87(2)(b) also began to protest this finding, suggesting that Officer Iglesias had planted evidence on him. § 87(2)(b) § 87(2)(b) stated that neither she nor § 87(2)(b) had any drugs on their person and neither individual is currently a drug user.

Officer Iglesias replied, "Give her your shit, because you're going in!" Before leaving the officers allowed § 87(2)(b) to take some of § 87(2)(b)'s property. § 87(2)(b) was handcuffed and informed that he was being arrested for criminal possession of a controlled substance. Not

long after, an unmarked black van containing four plainclothes officers later arrived at the scene but had little interaction with § 87(2)(b) § 87(2)(b) left the scene without further incident.

Victim: § 87(2)(b)

- § 87(2)(b) is a § 87(2)(b)-old black male who stands 5'6" and weighs 130 pounds. He has black hair and brown eyes.

On December 7, 2010, § 87(2)(b) was interviewed at the CCRB as a walk-in complainant [Enc. 11A-E]. § 87(2)(b) was also contacted by phone on March 1, 2011, for several follow-up questions [Enc. 11C]. His statement is summarized below.

On October 9, 2010, at approximately 2:30pm, § 87(2)(b) was exiting his apartment located inside of § 87(2)(b) § 87(2)(b) to head to the Elder Avenue 6 train station. § 87(2)(b) has lived in the building for four years, and he stated that to his knowledge, the building does not participate in any sort of Trespass Affidavit or Clean Halls programs. § 87(2)(b) was wearing a grey-and-black hooded sweatshirt, grey sweatpants, and white sneakers.

§ 87(2)(b) description to the lead up the incident was consistent with that of § 87(2)(b). He explained that they simply exited the building and walked to corner of East 174th Street and Metcalf Avenue before they were stopped by Officer Leitao and Officer Iglesias. Officer Iglesias leaned out of the window and told § 87(2)(b) that he had observed them "coming out of that building right there" and asked him if he had identification on him. § 87(2)(b) said, "Officer I have my keys in my hand I live there" and first produced his EBT debit card to show identity. Officer Iglesias told § 87(2)(b) he needed to see an official New York State identification card (which § 87(2)(b) does not possess), so instead § 87(2)(b) produced a piece of mail which stated his name and address on it. § 87(2)(b) denied yelling at the officers while speaking with them. He denied waving his hands, motioning towards his waistband, or otherwise making any motions that would be interpreted as threatening to the officers while speaking to them.

While Officer Iglesias was examining the materials inside of the vehicle, § 87(2)(b) began to verbally protest the officers' actions stating that "They had no cause to roll up on [us] like that." Her protests seemed to embolden the officers, and soon after both emerged from the car. Officer Iglesias approached § 87(2)(b) and guided him towards the car and frisked him over his jacket and sweatpants. He was carrying his wallet, lighter, keys, and cigarettes in his front sweat pants pockets. § 87(2)(b) had nothing strapped to his waistband and he does not carry a cell phone. While frisking him, Officer Iglesias asked § 87(2)(b) "When was the last time you've been arrested?" Officer Iglesias then reached inside of § 87(2)(b)'s sweatpants cargo pockets and pulled out a glassine envelope that contained some "crumbs" of crack-cocaine residue. § 87(2)(b) described the sweatpants pocket as a Velcro-sealed pocket, but explained that the time of the search the Velcro was unfastened. However, the flap of the pocket was still closed over the pocket, and § 87(2)(b) did not believe that someone would be able to see into his pocket based on this condition. § 87(2)(b) acknowledged that he had crack-cocaine in his possession and the explained that he forgot that he was carrying it in his pants. After the narcotics were recovered, § 87(2)(b) was immediately placed in handcuffs.

§ 87(2)(b) continued to protest the stop and argue with the officers about the legality of their actions. After he was handcuffed, one of the officers searched through § 87(2)(b)'s bag. § 87(2)(b) was still outside of the car when they "had § 87(2)(b) open up her bag." § 87(2)(b) opened up her bag to show the contents to Officer Iglesias and Officer Leitao. § 87(2)(b) did not hear any officer ask § 87(2)(b) to open her bag (he was unsure what prompted the bag search) and he was unsure if either officer ever reached inside of the bag. Before he was lodged inside of the car, he heard one of the officers' remark to the other that they "had found nothing in the bag."

§ 87(2)(b) did not hear any officers using any curse words while he was at the scene. § 87(2)(b) was subsequently removed from the scene and eventually charged with criminal possession of a controlled substance in the seventh degree. Despite being informed by his Legal Aid attorney that the circumstances of his arrest were improper, § 87(2)(b) decided to plead guilty at his first appearance as the judge offered him time served. § 87(2)(b) wanted to put the incident behind him and avoid spending any further time in jail to await a further hearing.

NYPD Statements:

Subject Officer: MIGUEL IGLESIAS, 43rd PRECINCT

- *Officer Iglesias is a § 87(2)(b) old white/Hispanic male who stands 6'1" and weighs 205 pounds. He has brown hair and brown eyes.*
- *On October 9, 2011, Officer Iglesias worked from 8:00am to 4:25pm, and he was assigned to SNEU. At the time of the incident, Officer Iglesias was dressed in uniform, working with Officer Leitao inside of RMP #272, which is a dark grey Chevrolet Impala.*

Memo Book [Enc. 12A-B]

At 2:20pm, Officer Iglesias noted that Officer Leitao had arrested § 87(2)(b) for criminal possession of a controlled substance and that § 87(2)(b) had been stopped with § 87(2)(b).

CCRB Statement [Enc. 13A-C]

On March 2, 2011, Officer Iglesias was interviewed at the CCRB. On October 9, 2010, Officer Iglesias and Officer Leitao were assigned to the chase vehicle during a SNEU set within the vicinity of § 87(2)(b). Officer Iglesias described § 87(2)(b) as a large 10-15 story building which participates in the 41st Precinct's "Operation Clean Halls" program. He has made arrests in the past for narcotics within the building and he referred to the building as a drug prone location. Officer Iglesias believed that the SNEU team had been conducting surveillance of a different building in the area, and their unit had been driving around the area awaiting word from the observation vehicles. Officer Iglesias could not recall if he was driving the vehicle or in the passenger seat during the incident.

Officer Iglesias observed two individuals, identified as § 87(2)(b) and § 87(2)(b) exiting § 87(2)(b). Officer Iglesias made the initial observation of § 87(2)(b) and § 87(2)(b) exiting the building while driving past the building. Beyond observing them exit the building, Officer Iglesias did not observe any other indications of potential narcotics activity or criminality from either § 87(2)(b) or § 87(2)(b). Officer Iglesias explained that based on his training, the Clean Halls program allows police officers to stop any individual observed entering or exiting the building, inside of the building or outside of the building, to verify if they live inside of the building or otherwise determine their reason for being there. The officers initial intention was to "stop § 87(2)(b) and § 87(2)(b) and inquire to as whether they lived in the building." Officer Iglesias and Officer Leitao pulled their vehicle over and stopped § 87(2)(b) and § 87(2)(b) at the intersection of Metcalf Avenue and East 174th Street, approximately § 87(2)(b) from the entrance of § 87(2)(b).

Officer Iglesias explained that throughout the incident, he primarily dealt with § 87(2)(b) while Officer Leitao approached and addressed § 87(2)(b). He explained that they were standing about 5 feet away from each other in a position where they could retain eye contact with each other as they dealt with the suspects. Officer Iglesias stepped out of his vehicle and he asked § 87(2)(b) "Excuse me, police department. Where are you coming from?" § 87(2)(b) replied, "My house." Almost immediately, § 87(2)(b) was uncooperative and raised his voice

demanding, “Why are you stopping me?” to Officer Iglesias. Officer Iglesias reiterated, “Where are you coming from?” § 87(2)(b) replied again, “My house.” Officer Iglesias said, “Where’s your house? I need an address.” § 87(2)(b) pointed back towards § 87(2)(b). Officer Iglesias stated, “You have any form of identification?” § 87(2)(b) replied, “Why? I ain’t gotta show you nothing.” Officer Iglesias explained to § 87(2)(b) that he had stopped him since he observed him exiting a Clean Halls building and that therefore he had the right to stop him and make sure that he wasn’t trespassing inside of the building. § 87(2)(b) continued to say that he did not possess any form of identification.

At this point, § 87(2)(b) and § 87(2)(b) were not free to leave the scene since the officers were investigating whether or not they resided inside of § 87(2)(b). Officer Iglesias vaguely recalled § 87(2)(b) at one point displaying a piece of paper which had his name on it, but it had no address and did not otherwise indicate where he lived. Officer Iglesias could not recall § 87(2)(b) producing a piece of mail with his address at any point during the incident. Officer Iglesias continued to request that § 87(2)(b) provide his identification. Officer Iglesias felt that § 87(2)(b) was being evasive in his answers and not making eye contact with him while he was answering his questions. As the stop progressed, both § 87(2)(b) and § 87(2)(b) became “louder and more uncooperative” and began to complain that the stop was a violation of their civil rights.

During their conversation, Officer Iglesias explained § 87(2)(b) was making “furtive movements” with his hands. He specified that § 87(2)(b) was moving his body back and forth and moving his hands around in the air nervously and touching parts of his clothing and over his jacket pockets while speaking to Officer Iglesias. Officer Iglesias also stated that he observed a bulge in the left cargo pocket of § 87(2)(b)’s pants. Officer Iglesias could not recall the shape of the bulge or describe the bulge in any sort of detail. He stated that “It just looked like there was something in there.” When asked if the bulge appeared to be a potential weapon, Officer Iglesias stated, “It looked like there was bulge. It just looked like there could have been a hard object in there.” Officer Iglesias could not reference a specific motion or aspect of § 87(2)(b)’s behavior which he found threatening. He did not otherwise indicate that § 87(2)(b) was reaching towards the area of the bulge. At this point, Officer Iglesias determined to frisk § 87(2)(b) for his safety. He surmised that the combination of § 87(2)(b)’s jittery arm movements, his evasive answers, and his general uncooperative demeanor was the basis for his frisk. He furthered, “Before we continued the investigation, I just wanted to make sure that he had no weapons on him that he could reach for quickly and pull out.”

Officer Iglesias approached § 87(2)(b) “Do you have anything you that you’re not supposed to have?” before he attempted to frisk § 87(2)(b). Officer Iglesias stated that he first attempted to frisk § 87(2)(b)’s left cargo pocket. He stated that he was likely “in contact” with § 87(2)(b)’s waist area with his hands and looking downwards towards § 87(2)(b)’s cargo pockets. Officer Iglesias explained that normally for his safety he will visually inspect an area for dangerous objects that could potentially stab him before frisking over them. Officer Iglesias could not recall what the cargo pocket looked like but he believed that it had a flap over the pocket which was “completely open” at the time. While standing over his pocket and looking downwards, Officer Iglesias could see inside of § 87(2)(b)’s cargo-pants pocket and he observed approximately 2-inch zip-lock bag that appeared to have crack-cocaine residue in it. Officer Iglesias made this observation “as clear as day.” Officer Iglesias did not frisk over § 87(2)(b)’s cargo pocket before making this observation. Officer Iglesias acknowledged that there was “some contact” with § 87(2)(b)’s person before he made the observation, explaining that he had his hands on § 87(2)(b)’s waistband area after a cursory frisk but also to prevent him from moving or running away during the frisk. After making the observation, Officer Iglesias reached inside and recovered a small zip lock bag which appeared to contain residue of crack-cocaine.

Officer Iglesias did not believe that he reached inside of any of § 87(2)(b)'s other pockets before recovering the bag of crack-cocaine. Officer Iglesias believed that there was additional property inside of § 87(2)(b)'s pocket which caused the bulge, but he could not recall what that property was. He speculated that it could have been a cell phone. § 87(2)(b) was subsequently handcuffed and informed that he was under arrest.

During the incident, § 87(2)(b) was also acting loud and uncooperative and refusing to answer Officer Leitao's questions or provide her identification. Officer Iglesias stated that he only briefly interacted with § 87(2)(b) at the beginning of the incident. Officer Iglesias denied using discourteous language while speaking to either of the civilians. He could not recall threatening to arrest § 87(2)(b) or if she continued act unruly. He did observe at one point § 87(2)(b) tossing her bag to Officer Leitao and saying something to the effect of "Here, you look inside of it." He did not hear the conversation which led up to this. He believed that Officer Leitao searched § 87(2)(b)'s bag for identification.

Subject Officer: OFFICER ANTHONY LEITAO, 43rd PRECINCT

- *Officer Leitao is a § 87(2)(b)-old white male who stands 5'10" and weighs 210 pounds. He has brown hair and brown eyes.*
- *On October 9, 2010, Officer Leitao worked from 8:00am to 4:35pm and was assigned to SNEU. During the incident, he was dressed in uniform and working with Officer Iglesias, inside of RMP #272, which is a dark grey Chevrolet Impala.*

Memo Book [Enc. 15A-C]

Officer Leitao made memo book entries reflecting his arrest of § 87(2)(b). Officer Leitao also made a notation on the fly sheet of his memo book with § 87(2)(b)'s name and date of birth indicating that he completed a UF-250 in regards to her stop [Enc. 15C].

OLBS Arrest Report [Enc. 14C-D]

Officer Leitao was § 87(2)(b)'s arresting officer. On his OLBS report, the narrative reads "At [time and place of occurrence] § 87(2)(b) was observed with a quantity of a controlled substance in plain public view." § 87(2)(b) was charged with criminal possession of a controlled substance in the seventh degree.

CCRB Statement [Enc. 16A-C]

On February 16, 2011, Officer Leitao was interviewed at the CCRB. Officer Leitao articulated an identical explanation to Officer Iglesias concerning the basis for their stop of § 87(2)(b) and § 87(2)(b) explaining they were stopped only because they were observed exiting a Clean Halls building. Officer Leitao explained that the officers first approached § 87(2)(b) and § 87(2)(b) on the corner of Metcalf Avenue and East 174th Street which is approximately § 87(2)(b) from the entrance to § 87(2)(b). Officer Leitao's description of his initial interaction with § 87(2)(b) and § 87(2)(b) was also consistent with Officer Iglesias, as he detailed that the officers approached them and inquiring if they lived in the building and requesting that they provide identification. § 87(2)(b) and § 87(2)(b) were instantly uncooperative and they both refused to provide identification. They both made comments to the effect of, "I don't have to give you shit! I don't have no ID!" and "I don't have to give you anything. You have no reason to stop us."

Officer Leitao mostly dealt with § 87(2)(b) during the incident. § 87(2)(b) was refusing to provide her identification, but she was not acting as provocatively as § 87(2)(b). Officer Leitao continued to verbally request § 87(2)(b)'s identification. § 87(2)(b) responded by tossing her pocket book at Officer Leitao and saying, "Here you go! You go look through it." Officer

§ 87(2)(g)

Both Officer Iglesias and Officer Leitao indicated that the only factor predicated their approach of § 87(2)(b) and § 87(2)(b) was that they were observed exiting a Clean Halls building. The initial inquiry into their residency occurred approximately § 87(2)(b) away from the entrance to § 87(2)(b) § 87(2)(b). While § 87(2)(b) and § 87(2)(b) indicated that they were initially cooperative with the officers' inquiries, both officers indicated that the civilians were uncooperative and refused to provide their identification. As such, Officer Iglesias indicated that the civilians were not free to leave until they could verify that they were residents of the building or had another lawful purpose for being within.

[REDACTED]

Officer Iglesias summarized that he determined to frisk § 87(2)(b) for his safety because he was moving his arms around in a furtive manner and since he was loud and uncooperative during his questioning. Officer Iglesias also specified that § 87(2)(b) was moving his hands around and touching his clothing, which made him nervous that he may reach for something, although he could not provide a specific arm motion that § 87(2)(b) made which he interpreted as threatening during the encounter. Officer Iglesias also indicated that he observed an amorphous bulge in § 87(2)(b)'s right cargo pocket, although he could not provide any sort of description concerning the bulge beyond its ambiguous existence in § 87(2)(b)'s cargo pocket. Officer Leiato's testimony did not completely corroborate Officer Iglesias's testimony. He indicated vaguely that § 87(2)(b) was flailing his arms and also stated that he observed § 87(2)(b) reaching for his waistband, a motion that Officer Iglesias' did not mention in his statement.

cooperation during a level one street encounter is not sufficient to justify a frisk. Furthermore, as discussed in *NYPD v. Mercurio* (2000) [Enc. 3A-I], the presence of an amorphous bulge during a level one street encounter, absent additional indices of criminality, is not sufficient alone to justify a frisk. § 87(2)(g)

According to Patrol Guide Procedure 212-11 [Enc. 4A-D], a frisk can be conducted when an officer has the reasonable belief that an individual is in possession of a weapon or when the officer is in fear for their safety. § 87(2)(g)

Allegation D) Officer Miguel Iglesias searched § 87(2)(b)

§ 87(2)(b) alleged that after he was frisked over his jackets and pants pockets, Officer Iglesias reached inside of his cargo pocket and removed the bag of crack-cocaine. § 87(2)(b) explained that while the Velcro latches were unfastened, he believed the sealing flap was down at the time and therefore Officer Iglesias would be unable to see inside of his pocket. Officer Iglesias explained that after he came into contact with § 87(2)(b)'s waistband area, he looked downwards towards § 87(2)(b)'s cargo pocket and could observe the bag of crack-cocaine in plain sight. Officer Iglesias acknowledged that he likely came into contact with § 87(2)(b)'s waist before hand, but explained that he did not frisk over the cargo pocket before he recovered the bag, citing the fact that he visually inspected the area first to prevent potential injury from any dangerous items within.

As discussed in *New York v. Brown*, 96 N.Y.2d 80 (2001), seizing evidence based upon the plain view doctrine must be based on three indispensable tenants; first, that an officer is in a lawful position to observe the item in question; second, that an officer has lawful access to the item before seizure; and third, that the incriminating character of the item seized is immediately apparent to the officer when observed [Enc. I-IV]. § 87(2)(g)

Allegation E) Officer Anthony Leitao searched § 87(2)(b)'s bag

§ 87(2)(b) alleged that Officer Leitao abruptly grabbed her bag from her and searched it after questioning her about narcotics. Officer Leitao explained that § 87(2)(b) tossed her bag to him and told him he could look through it for her identification during the incident. He denied searching the bag for contraband, explaining that he only looked through the bag for § 87(2)(b)'s identification per her request. Officer Iglesias somewhat corroborated Officer Leitao statement, while § 87(2)(b) provided a third scenario indicating that he observed § 87(2)(b) opening her bag and displaying the contents to the officers. § 87(2)(g)

§ 87(2)(b)

§ 87(2)(b)

§ 87(2)(b)

§ 87(2)(b)

§ 87(2)(b)

Allegation F) Officer Miguel Iglesias threatened to arrest § 87(2)(b)

§ 87(2)(b) alleged that Officer Iglesias told her that he would “run her in” while she was protesting the officers’ actions. § 87(2)(b)'s statements regarding the incident are not completely credible as § 87(2)(b) did not corroborate her assertion that Officer Iglesias cursed at her during the incident. She also implied that the officers falsely attributed a bag of crack-cocaine to § 87(2)(b) a fact refuted by § 87(2)(b) who acknowledged possessing narcotics. § 87(2)(g)

§ 87(2)(b)

§ 87(2)(b)

§ 87(2)(b)

§ 87(2)(b)

§ 87(2)(b)

§ 87(2)(b)

Team: _____

:

Investigator: _____
Signature _____ Print _____ Date _____

Supervisor: _____
Title/Signature _____ Print _____ Date _____

Reviewer: _____
Title/Signature _____ Print _____ Date _____

Reviewer: _____
Title/Signature _____ Print _____ Date _____